## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,

Sarwat Khattak, and Greg Randall

Serial No.: 10/053,929 Art Unit: 1618

Filed: January 22, 2002 Examiner: Blessing M. Fubara

For: POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

## DECLARATION UNDER 37 C.F.R. § 1.131

Sir:

We, Julie Straub and Howard Bernstein, hereby declare that:

- 1. We are co-inventors of the above-identified application.
- 2. We conceived of and reduced to practice a method of forming microparticles that contain a diagnostic agent, which was subsequently described in U.S. Patent No. 6,565,885 to Tarara et al. This method involves spray drying a feed stock containing the diagnostic agent, a surfactant and a blowing agent. We conceived of and reduced to practice this method prior to September 29, 1997, as demonstrated by the attached copies of pages from a laboratory notebook (Exhibit A).
- 3. As noted in Exhibit A, the feed stock to the spray drying apparatus contained ammonium acetate, lecithin, (poly(ethylene glycol)-co-poly(lactide-co-glycolide) (75:25), D,L-450944416v1

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poly(lactide), and air. This composition was emulsified using a VirTis homogenizer to form an

emulsion, which was then spray dried using a small-scale lab spray dryer (see Exhibit A, page

14). The resulting microparticles had diameters ranging from 1-20 microns and were hollow

with internal central-like voids containing the air bubble, as demonstrated by transmission

electron microscopy (see Exhibit A, page 116). These microparticles were echogenic (see

Exhibit A, page 105, injection 7).

4. I declare that all statements made herein of my own knowledge and belief are true and

that all statements made on information and belief are believed to be true, and further, that the

statements are made with the knowledge that willful false statements are punishable by fine or

imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such

willful false statements may jeopardize the validity of the application or any patent issuing

thereon.

Date: (3 Mar. 06

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